

DETAILED ACTION

This action is in response to papers filed on December 28, 2009.

Claims 1, 9, 19, 30, 38, 48 and 49 have been amended.

Claims 1-2, 4, 8-10 14-20, 24-28, 30-31, 36-39 and 43-50 are pending.

Claims 1-2, 4, 8-10 14-20, 24-28, 30-31, 36-39 and 43-50 are rejected.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims , 9, 19, 30, 38, 48 and 49 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims contain the limitation "transmitting to the server, a request that the client is to be identified in the list of the plurality of the content providers as an additional content provider that provides the content files" the applicants disclosure lacks support for this amendment, the disclosure as originally presented does not teach/describe a client requesting to be added to the content provider list. The disclosure merely teaches the client becomes content provider of the system when the distribution tool provided and the system then adds the client to the list of content providers. The content provider does not appear to have the

option of initially being on the list, the only option the provider has is to be removed from

th ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4, 8-10, 14-20 , 24-28, 30-31, 36-39 and 43-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0174861; Levy et al; Connected Audio and Other Media Objects. Hereinafter referred to as Levy, in view of US Patent 5, 638, 443 Stefik et al; System for Controlling the Distribution and Use of Composite Digital Works. Hereinafter referred to as Stefik in further view of US Patent 6,848,002 Detlef System and method for optimal selection and presentation of streaming media types. Hereinafter referred to as Detlef.

4. As to claims 1, 9, 19, 30, 38, 48 and 49 Levy teaches

5. transmitting a request to download data, wherein said data comprises a content file; **(Pg. 5 ¶ 42 “when the user request a file in a streaming or compressed file format)**

6. receiving identification information and data downloaded from one of a plurality of content providers storing said data, said identification information identifying said one content provider and obtained by said one content provider from an original content provider of said data; transmitting, to said original content provider, said identification information for said one content provider, which downloaded said data, along with

payment for the download of said data; (**Pg. 4 ¶ 34 the OID is encoded with additional information about the distributor and identifies the object Pg. 6 ¶ 55 the registration process provides information identifying the attribute of the audio object such as its distributor(content provider) or broadcaster.**)

7. transmitting, to said original content provider, a request for a distribution tool identifying said client as an additional content provider that distributes said data to other clients; (**PG. 5 ¶ 44 the distributor ID is used for copy control, played, transferred, recorded**)

8. receiving said distribution tool; *wherein the distribution tool includes identification information for the server and the client and (Pg 6 ¶ 61 the clearing house embeds the media objects and pushes them to the user) (PG. 2 ¶ 15 identifier may identify media object, entities or actions...)*

9. *Levy teaches the distribution tool is embedded in said data and the distribution tool is subsequently transmitted to the server by the different client after the different client downloads said data from said client(Pg. 3 ¶22-23, Pg. 4 ¶ 30) The examiner notes that these limitations are not positively recited and the steps required(ie different client downloads data) to initiate these steps are not performed therefore the limitations as claimed are outside the scope of the claim and impart no patentable weight and/or eligibility. Applicant never positively claims distributing the data to the different client or the different client downloading data.*

10. Levy fails to teach applying by the client said distribution tool to said data to identify said client as an additional content provider prior to distributing said data to another client, wherein said clients are operated by users of the content file.

11. However, Stefik teaches “distribution and use scenarios” in which he teaches utilizing the consumer as a distributor of the digital works either as a paid or unpaid distributor.”(C. 43 l. 28-68). It would have been obvious to one skilled in the art at the time of invention to combine Stefik's consumer distributors with Levy's retail distributors as a simple substitution of the consumer as the distributor rather than a retailer or broadcaster. This would allow the rights holder to expand their audience while maintaining the usage rights and associated fees while yielding predictable results of expanding the market and audience of the digital works.

12. Levy/Stefik fail to teach the server maintaining a list of plurality of content providers and updating the list to include the client as a content provider for providing the content file *transmitting a request that the client be identified and added in the list of the plurality of content providers as an additional content provider of the content file.* However, Detlef teaches a list of content providers that is updated for current providers after accessing registry information(C. 4 l. 61-67). It would have been obvious to one of ordinary skill in the art to include in the content distribution system of Levy/Stefik the ability update the content provider list as providers are registered as taught by Detlef since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of

the combination were predictable. *The examiner notes that the request to become a content provider of Stefik in combination with the updating of the list implies that the provider is requesting to be added to the list of content providers.*

13. As to claims 2, 4, 10, 14-15, 20 24-25, 31, 36, 39 and 43-44 Levy teaches the distribution tool as being an embedded watermark(Pg 1 12; Pg. 3 ¶ 30).

14. As to claims 8, 16-17, 26-28, 37, 45-47 and 50 Levy teaches transmitting payment to download data and paying distributor royalties(Pg. 4 ¶ 34).e list while also being removed as a provider.

Response to Arguments

15. Applicant's arguments filed December 28, 2009 have been fully considered but they are not persuasive. A

16. As to applicants arguments that the references fail to teach "transmitting a request that the client is to be identified in the list of plurality of the content providers as an additional content provider that provides the content file, the new limitation has been addressed in the above rejection.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 7:00 am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Traci L Casler/
Primary Examiner, Art Unit 3629